



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Daniel E. Gerbec et al.

) Art Unit
) 3732

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NOV. 04 2004

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;

Commissioner for Patents
PO Box 1450
Arlington, Virginia 22313-1450

01 FC:1461

72.00 0P

The above-identified patent application was filed in the United States Patent and Trademark Office on August 28, 2003 with a claim to small entity status. Applicant respectfully submits that the small entity status was established in good faith and that the fees paid up through the present as a small entity were paid in good faith. It was recently discovered, however, that on June 18, 2004 small entity was lost. Accordingly, applicant hereby petitions that the error in claiming small entity status after June 18, 2004 be excused pursuant to 37 CFR § 1.28(c).

10/27/2004 DALLEN 00000022 233178 10651138
01 FC:1461 72.00 DA

Void date: 10/27/2004 DALLEN
10/27/2004 DALLEN 00000022 233178 10651138
01 FC:1461 72.00 CR

Set forth below is an itemization of the deficiency payment.

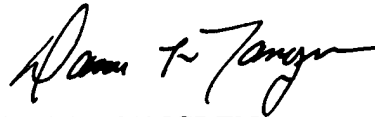
Type of Fee Paid	Current Fee for Non-Small Entity	Small Entity for Actually Paid	Difference
New claim fee	144	72	72
Total			72

In view of the foregoing, the total deficiency payment owed is \$72.00. Enclosed herewith please find Form PTO-2038 submitting the required payment of \$72.00. The Patent Office is hereby authorized to deduct any further required payment or to apply any overpayment to deposit account no. 23-3178. A duplicate copy of this letter is enclosed.

Finally, pursuant to 37 CFR § 1.28(c), this submission is also notification of loss of entitlement to small entity status.

Dated this 22nd day of October 2004.

Respectfully submitted,



DANA L. TANGREN
Attorney for Applicant
Registration No. 37,246
Customer No. 022913
Telephone: (801) 533-9800
Fax: (801) 328-1707

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Express Mailing Label No. EV 382 938 086 US

PATENT APPLICATION

Docket No: 13447.9.2

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Daniel E. Gerbec et al.

Serial No: 10/651,138

Filed: August 28, 2003

Confirmation No.: 8182

For: METHODS FOR ADJUSTABLE BONE FUSION IMPLANTS

Examiner: David A. Bonderer

TRANSMITTAL OF ISSUE FEE PAYMENT

Mail Stop Issue Fee
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Notice of Allowance and Fee(s) Due dated September 24, 2004, please find enclosed herewith the following items for filing in the United States Patent and Trademark Office in connection with the above identified patent application:

X Fee(s) Transmittal (PTOL-85) submitted pursuant to 37 C.F.R. § 1.311.

X A Certificate of Express Mail under 37 C.F.R. § 1.10 is enclosed.

10/27/2004 DALLEN 00000024 10651138

01 FC:1501
02 FC:1504
03 FC:9999

1370.00 OP
300.00 OP
45.00 OP

A Supplemental Declaration executed by the inventor(s) is submitted pursuant to 37 C.F.R. § 1.67.

— Pursuant to the request for submission of formal drawings, enclosed are the following:

— A Letter to the Official Draftsperson;

— A set of _____ () sheets of formal drawings to replace the corresponding drawings originally filed with the subject application.

— A duplicate set of the _____ () sheets of formal drawings with the changes therein highlighted in red.

X Petition to Excuse Error in Small Entity Status is enclosed.

X Form PTO-2038 submitting Credit Card Payment in the amount of \$72.00 is enclosed to cover the fee deficiency for the Petition to Excuse Error.

X Form PTO-2038 submitting Credit Card Payment in the amount of \$1,715.00 is enclosed to cover:

X The \$1,370.00 government issue fee pursuant to 37 C.F.R. § 1.18.

X The \$300.00 government publication fee pursuant to 37 C.F.R. § 1.18.(d)

X The \$45.00 fee for fifteen (15) copies of the patent when issued.

X The Commission is hereby authorized to charge payment of any additional fees or credit any overpayment to Deposit Account No. 23-3178.

X A duplicate copy of this letter is enclosed.

Please address all future correspondence in connection with the above-identified patent application to the attention of the undersigned.

Dated this 22nd day of October 2004.

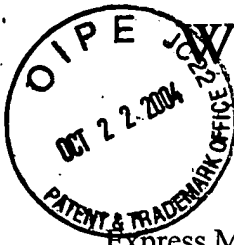
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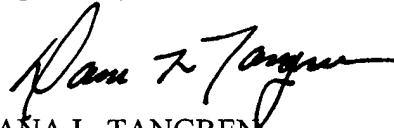
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- ____ Pursuant to the request for submission of formal drawings, enclosed are the following:
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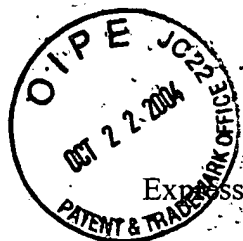
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Examiner: David A. Bonderer)

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CERTIFICATE OF EXPRESS MAIL UNDER 37 C.F.R. § 1.10

I hereby certify that following documents are being deposited with the United States Postal Service as Express Mail, postage prepaid, in an envelope addressed to: Box: Mail Stop Issue Fee, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 22nd day of October 2004.

- Transmittal of Issue Fee (2 pages) (in duplicate)
- PTO Form PTOL-85 transmitting payment of Issue Fee and Publication Fee
- Form PTO-2038 submitting Credit Card Payment in the amount of \$1,715
- Petition to Excuse Error in Small Entity Status (2 pages) (in duplicate)
- Form PTO-2038 submitting Credit Card Payment in the amount of \$72
- Postcard

Respectfully submitted,

DANA L. TANGREN
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